

*Amend existing Title 22, California Code of Regulations section 4418:*

§ 4418. Wage Criteria.

~~(a) The Employment Training Panel (Panel) shall establish regions for the determination of a Panel regional average hourly wage based on Employment Development Department, Labor Market Information Division data. The Panel regions shall be a configuration of contiguous counties that meet the following criteria:~~

- ~~(1) Similar employment and industrial base.~~
- ~~(2) Similar seasonal patterns.~~
- ~~(3) Recently experienced similar trends or changes in their economy.~~
- ~~(4) Reasonably similar annual average Panel wages.~~
- ~~(5) Tend to be either rural, semi-annual, or urban.~~
- ~~(6) Reasonably similar unemployment rates.~~

~~(b) Panel regions shall be reviewed on an annual basis to ensure that the regions continue to meet the criteria.~~

(a) The Panel shall establish wage requirements for the minimum hourly wage a trainee must earn at the end of the employment retention period (ETP Minimum Wage). The ETP Minimum Wage shall be based on statewide wage data for the previous fiscal year, provided by the Employment Development Department's Labor Market Information Division (LMID). The ETP Minimum Wage shall be established for each calendar year on a county-by-county basis. Furthermore, the Panel shall review the ETP Minimum Wage annually, and make revisions as needed based on LMID data.

(b) The Panel may use commission earnings to determine a trainee's hourly wage, if there is a reliable history of commission payment by the employer and if actual payment can be verified. As used herein, "commission" means a percentage or proportion of the sale price, for services rendered in the sale of goods or services, paid to employees whose principal job duty is sales.

(c) The panel may include bonuses in determining a trainee's hourly wage, if there is a reliable history of bonus payment by the employer and if actual payment can be verified. As used herein, "bonus" means compensation paid in addition to salary, hourly wage, or commission. Bonuses are payable in addition to any other compensation, and are normally paid to reward extraordinary work or induce continued employment.

(d) The Panel may include mandatory service charges paid to a trainee, in determining his or her hourly wage, if actual payment can be verified. As used herein, "mandatory service charges" means a non-voluntary surcharge for service that is:

- (1) imposed on the patron of a business, and
- (2) added to the amount due for goods, food, drink or articles sold to the patron, and
- (3) taxable to the employer as a portion of gross receipts, and
- (4) payable to the trainee in its entirety, or payable as a fixed percentage that is subject to prior approval by the Panel.

(e) The Panel may include the dollar amount of health benefits paid to a trainee in determining his or her hourly wage. As used herein, "health benefits" means payments made by the employer toward the cost of medical, dental or vision care insurance. These employer payments may be made as follows:

- (1) full or partial premium payments to a health insurance plan regardless of whether the plan is sponsored by the employer, or
- (2) contributions to a cafeteria plan administered under Internal Revenue Code Section 125 for the reimbursement of medical costs.

In every instance, these employer payments must be reliable and verifiable before they may be included in the hourly wage determination.

Authority: Section 10205(k)(m), Unemployment Insurance Code.

Reference: Sections ~~10201(g)~~ 926, 10200(a)(4), 10201(f) and 10205(e), Unemployment Insurance Code. Sections 200, 204.1 and 350, Labor Code.

*Repeal existing Title 22, California Code of Regulations section 4419:*

~~4419. Health Benefits.~~

~~(a) The Panel may consider the dollar value of health benefits voluntarily paid by an employer in the calculation of a trainee's after retention wage to meet the minimum wage requirements.~~

~~(1) Health benefits include medical, dental, and/or vision insurance.~~

~~(2) The Panel shall use the following formula to calculate a trainee's after retention minimum wage that includes health benefits:—~~

~~The total monthly amount paid (retrainee) or to be paid (new hire) by employer, divided by total hours of employment per month, then add hourly health benefit amount to hourly wage for total hourly wage.~~

~~(3) Health benefits paid pursuant to a collective bargaining agreement are deemed to be voluntary.~~

~~Authority: Section 10205(k), Unemployment Insurance Code.~~

~~Reference: Section 10201(g), Unemployment Insurance Code.~~

*Repeal existing Title 22, California Code of Regulations section 4442.1:*

~~4442.1. Make-up Training.~~

~~(a) — Limitations on Payment for Hours Completed~~

~~(1) — A trainee may have excused absences of up to a maximum of 20 percent of the classroom/laboratory training hours and still be considered as having completed classroom/laboratory training. However, all absences must be authorized by the contractor/employer in writing and be based on good cause in order for the trainee to be considered for payment. These documented, excused absences need not be made up to receive payment but make-up sessions are encouraged.~~

~~(2) — No reimbursement for a trainee is paid if a trainee receives less than 80 percent of class/lab training hours specified in the contract unless the contractor provides make-up training as provided herein.~~

~~(b) — Contractors are permitted to provide make-up training sessions for trainees in order to meet the 80% minimum training hour requirement and/or any other minimum hour requirement provided by law or the Panel training contract. Make-up classroom/laboratory training sessions must meet the same requirements as the training provided for in the contract, and:~~

~~(1) — In order to qualify as "classroom/laboratory training hours"~~

~~(A) — The make-up session must be conducted in the same manner as the scheduled classroom/laboratory in content/curriculum, method of delivery, and be provided by a qualified trainer;~~

~~(B) — A video or audio tape of a training session by itself cannot constitute a make-up session;~~

~~(C) — A video tape of the entire training session missed may be acceptable for classroom/laboratory only if a qualified trainer is in attendance during the video to answer questions and provide overall clarification and/or instruction as needed. The Panel may approve this method of make-up training on a case-by-case basis to ensure this option accomplishes the objective and intent of the training;~~

~~(D) — Made up on an hour-per-hour basis for the training missed;~~

~~(E) — Provided at or below the trainer-to-trainee ratios as stated in the contract for all training sessions;~~

~~(F) — Documented in the same manner as regularly scheduled training. However, the contractor should indicate on the training attendance record when the training is "make-up" training;~~

~~(G) — Made up before beginning the 90-day retention and/or any other applicable retention period.~~

~~(c) An individual trainee may make up training by attending another regularly scheduled classroom/laboratory session or a make-up training session as described in (b) above.~~

~~Authority: Section 10205(l) (m), Unemployment Insurance Code.~~

~~Reference: Section 10200(a) (m), Unemployment Insurance Code.~~

*Repeal existing Title 22, California Code of Regulations section 4444:*

~~4444. Project Review.~~

~~Panel staff shall prepare a special review of contract performance every six months after the start of a contract. Such reviews shall include the following:~~

- ~~(a) Contractor's actual enrollments compared with planned enrollments at that stage of the training.~~
- ~~(b) Assessment of the likelihood that the full amount of the contract will be earned.~~
- ~~(c) Recommendations to the panel for amendments to disencumber funds. In these cases, the panel shall notify the contractor of the panel's intention to disencumber funds, and the contractor shall have the opportunity to make a presentation before the panel prior to any final action by the panel.~~

~~Authority: Section 10205(k), Unemployment Insurance Code.~~

~~Reference: Section 10205(f) Unemployment Insurance Code~~